

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal No. 01-05
)	
vs.)	
)	
JOSE RANGEL,)	JURY INSTRUCTIONS
)	
Defendant.)	

MEMBERS OF THE JURY, THE COURT NOW GIVES YOU THE
FOLLOWING INSTRUCTIONS:

INSTRUCTION NO. _____

The instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all are important. This is true even though some of those I previously gave you are not repeated here.

These written instructions that I am now giving you will be available to you in the jury room. I emphasize, however, that this does not mean they are more important than my earlier instructions.

Again, all instructions, whenever given and whether in writing or not, must be followed.

INSTRUCTION NO. _____

You must make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and the court reporter cannot read back lengthy testimony.

Any notes you have taken should be used only as memory aids. You should not give your notes precedence over your independent recollection of the evidence. If you did not take notes, you should rely on your own independent recollection of the proceedings and you should not be influenced by the notes of other jurors. I emphasize that notes are not entitled to any greater weight than the recollection or impression of each juror as to what the testimony might have been.

INSTRUCTION NO. _____

It is your duty to find from the evidence what the facts are. You will then apply the law, as I give it to you, to those facts. You must follow my instructions on the law, even if you thought the law was different or should be different.

Do not allow sympathy or prejudice to influence you. The law demands of you just verdicts, unaffected by anything except the evidence, your common sense, and the law as I give it to you.

INSTRUCTION NO. _____

I have mentioned the word "evidence." The evidence in this case consists of the testimony of witnesses, facts that have been stipulated--that is, formally agreed to by the parties--and the documents and other things received as exhibits.

You may use reason and common sense to draw deductions or conclusions from facts which have been established by the evidence in the case.

Certain things are not evidence. I shall list those things again for you now:

(1) Statements, arguments, questions and comments by lawyers representing the parties in the case are not evidence.

(2) Objections are not evidence. Lawyers have a right to object when they believe something is improper. You should not be influenced by the objection. If I sustained an objection to a question, you must ignore the question and must not try to guess what the answer might have been.

(3) Testimony that I struck from the record, or told you to disregard, is not evidence and must not be considered.

(4) Anything you saw or heard about this case outside the courtroom is not evidence.

Finally, if you were instructed that some evidence was received for a limited purpose only, you must follow that instruction.

INSTRUCTION NO. _____

There are two types of evidence from which a jury may properly find a defendant guilty of an offense. One is direct evidence--such as the testimony of an eyewitness. The other is circumstantial evidence--the proof of a chain of circumstances pointing to the commission of the offense.

As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that, before convicting a defendant, the jury be satisfied of a defendant's guilt beyond a reasonable doubt from all of the evidence in the case.

INSTRUCTION NO. _____

In deciding what the facts are, you may have to decide what testimony you believe and what testimony you do not believe. You may believe all of what a witness said, or only part of it, or none of it.

In deciding what testimony to believe, consider the witness' intelligence, the opportunity the witness had to have seen or heard the things testified about, the witness' memory, any motives that witness may have for testifying a certain way, the manner of the witness while testifying, whether that witness said something different at an earlier time, the general reasonableness of the testimony, and the extent to which the testimony is consistent with any evidence that you believe.

In deciding whether or not to believe a witness, keep in mind that people sometimes hear or see things differently and sometimes forget things. You need to consider, therefore, whether a contradiction is an innocent misrecollection or lapse of memory or an intentional falsehood, and that may depend on whether it has to do with an important fact or only a small detail.

You should judge the testimony of the defendant in the same manner as you judge the testimony of any other witness.

INSTRUCTION NO. _____

The value of identification testimony depends on the opportunity the witness had to observe the offender at the time of the offense and to make a reliable identification later.

In evaluating such testimony you should consider all of the factors mentioned in these instructions concerning your assessment of the credibility of any witness, and you should also consider, in particular, whether the witness had an adequate opportunity to observe the person in question at the time of the offense. You may consider, in that regard, such matters as the length of time the witness had to observe the person in question, the prevailing conditions at the time in terms of visibility or distance and the like, and whether the witness had known or observed the person at earlier times.

INSTRUCTION NO. _____

You have heard testimony that the defendant, Jose Rangel, made a statement to law enforcement officers. It is for you to decide:

First, whether the defendant, Jose Rangel, made the statement and

Second, if so, how much weight you should give it.

In making these two decisions you should consider all of the evidence, including the circumstances under which the statement may have been made.

INSTRUCTION NO. _____

You have heard evidence that the defendant, Jose Rangel, was once convicted of a crime.

You may use that evidence to help you decide whether to believe the witness and how much weight to give his testimony.

INSTRUCTION NO. _____

The indictment in this case charges that the defendant committed the crime of Unlawful Possession of a Firearm.

The defendant has pleaded not guilty to that charge.

As I told you at the beginning of the trial, an indictment is simply an accusation. It is not evidence of anything. To the contrary, the defendant is presumed to be innocent. Thus the defendant, even though charged, begins the trial with no evidence against him. The presumption of innocence alone is sufficient to find the defendant not guilty and can be overcome only if the Government proves, beyond a reasonable doubt, each essential element of the crime charged.

There is no burden upon the defendant to prove that he is innocent.

INSTRUCTION NO. _____

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.

INSTRUCTION NO. _____

The phrase "on or about" a certain date is used in the indictment. In respect to this phrase, it is necessary only that the government prove the act to have occurred on or within a reasonable time before or after that date.

INSTRUCTION NO. _____

The Government must prove by the greater weight of the evidence that the offense charged in the indictment was begun, continued or completed in the Southern District of Iowa.

To prove something by the greater weight of the evidence is to prove that it is more likely true than not true. This is a lesser standard than proof beyond a reasonable doubt. The requirement of proof beyond a reasonable doubt applies to all other issues in the case.

INSTRUCTION NO. _____

You have heard testimony from persons described as experts. Persons who, by knowledge, skill, training, education or experience, have become expert in some field may state their opinions on matters in that field and may also state the reasons for their opinion.

Expert testimony should be considered just like any other testimony. You may accept or reject it, and give it as much weight as you think it deserves, considering the witness's education and experience, the soundness of the reasons given for the opinion, the acceptability of the methods used, and all the other evidence in the case.

INSTRUCTION NO. _____

The law requires you to determine whether there has been evidence of a particular intent or knowledge on the part of the defendant. Intent or knowledge may be proved like anything else. You may consider any statements made and acts done by the defendant, as shown by the evidence, and all the facts and circumstances in evidence which may aid in a determination of defendant's knowledge or intent.

Intent and knowledge are seldom capable of being proved directly. You may, but are not required to, infer that a person intends the natural and probable consequences of his acts.

INSTRUCTION NO. _____

This is a criminal case, brought against the defendant by the United States Government. The defendant is charged with Unlawful Possession of a Firearm. That charge is set forth in what is called an indictment which reads as follows:

On or about November 30, 2000, in Muscatine County in the Southern District of Iowa, the defendant, JOSE LUIS RANGEL, having been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess, in and affecting commerce, a firearm, a Jennings J-22 .22 caliber pistol.

This is a violation of Title 18, United States Code, Sections 922(g)(1) and (9).

INSTRUCTION NO. _____

The crime of Unlawful Possession of a Firearm as charged in the indictment, has three essential elements, which are:

One, the defendant had been convicted of a crime punishable by imprisonment for a term exceeding one year; and

Two, the defendant thereafter knowingly possessed a firearm, that is a Jennings J-22 .22 caliber pistol; and

Three, the firearm was transported across a state line at some time during or before the defendant's possession of it.

For you to find the defendant guilty of this crime, the Government must prove all of these essential elements beyond a reasonable doubt; otherwise, you must find the defendant not guilty.

You are instructed that the Government and the defendant have stipulated, that is, agreed, that the defendant has been convicted of a crime punishable by imprisonment for more than one year, and you must consider the first essential element as proven.

You are further instructed that the Government and the defendant have stipulated that the firearm in question was manufactured in the State of California. If you have found beyond a reasonable doubt that

the defendant possessed the firearm in the State of Iowa then you may, but are not required to, find that it was transported across a state line.

The term "firearm" means any weapon which will or is designed to or may be readily converted to expel a projectile by the action of an explosive.

INSTRUCTION NO. _____

The law recognizes several kinds of possession. A person may have actual possession or constructive possession. A person may have sole or joint possession.

A person who knowingly has direct physical control over a thing, at a given time, is then in actual possession of it.

A person who, although not in actual possession, has both the power and the intention at a given time to exercise dominion or control over a thing, either directly or through another person or persons, is then in constructive possession of it.

If one person alone has actual or constructive possession of a thing, possession is sole. If two or more persons share actual or constructive possession of a thing, possession is joint.

Whenever the word "possession" has been used in these instructions it includes actual as well as constructive possession and also sole as well as joint possession.

JURY INSTRUCTION NO. _____

In conducting your deliberations and returning your verdict, there are certain rules you must follow. I shall list those rules for you now.

First, when you go to the jury room, you must select one of your members as your foreperson. That person will preside over your discussions and speak for you here in court.

Second, it is your duty, as jurors, to discuss this case with one another in the jury room. You should try to reach agreement if you can do so without violence to individual judgment, because a verdict – whether guilty or not guilty – must be unanimous.

Each of you must make your own conscientious decision, but only after you have considered all the evidence, discussed it fully with your fellow jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinions if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right, or simply to reach a verdict.

Third, if the defendant is found guilty, the sentence to be imposed is my responsibility. You may not consider punishment in any way in deciding whether the Government has proved its case beyond a reasonable doubt.

Fourth, if you need to communicate with me during your deliberations, you may send a note to me through the marshal or bailiff, signed by one or more jurors. I will respond as soon as possible either in writing or orally in open court. Remember that you should not tell anyone – including me – how your votes stand numerically.

Fifth, your verdict must be based solely on the evidence and on the law which I have given to you in my instructions. The verdict whether guilty or not guilty must be unanimous. Nothing I have said or done is intended to suggest what your verdict should be – that is entirely for you to decide.

Finally, the verdict form is simply the written notice of the decision that you reach in this case. You will take this form to the jury room, and when each of you has agreed on the verdict, your foreperson will fill in the form, sign and date it, and advise the court security officer that you are ready to return to the courtroom.

INSTRUCTION NO. _____

Submitted to you with these instructions is a verdict form. When you reach your verdict have your foreperson sign the appropriate form.

All twelve jurors must agree to the verdict reached.

When you have completed the form, notify the court security officer.

RONALD E. LONGSTAFF, JUDGE
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal No. 01-05
)	
vs.)	
)	
JOSE RANGEL,)	VERDICT FORM
)	
Defendant.)	

COUNT 1

With regard to the crime of unlawful possession of a firearm as charged in Count 1, we, the jury,
find the defendant Jose Rangel

_____ NOT GUILTY

_____ GUILTY

FOREPERSON